



JUL 26 2001

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Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of ARMBRUSTER et al

U.S. Application No.: 09/720,338

Int. Application No.: PCT/EP99/04418

Int. Filing Date: 25 June 1999

Priority Date: 25 June 1998

Attorney Docket No.: 0756-0118P

For: FUNCTIONAL VITAMIN D DERIVATIVES
AND A METHOD FOR DETERMINING
25-HYDROXY-VITAMIN D AND
1 α ,25-DIHYDROXY-VITAMIN D

DECISION ON PETITION

UNDER 37 CFR 1.182

This is in response to applicants' "Amendment, Petition and Fee for Name Change in
-Nonprovisional Application- Declaration (37 C.F.R. § 1.182)" filed 27 April 2001.

BACKGROUND

On 25 June 1999, applicants filed international application PCT/EP99/04418, which claimed priority of an earlier Germany application filed 25 June 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 29 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 19 January 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 December 2000.

On 22 December 2000, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 15 February 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 20 February 2001, applicants filed four executed declarations.

On 21 March 2001, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the declarations filed on 15 February 2001 are not in compliance with 37 CFR 1.497.

On 27 April 2001, applicants filed the present petition. The petition states that the name of the third inventor has changed from Jens Schwing to Jens Tampe. The petition further states that it is accompanied by a certified copy of the court order whereby the purported name change was effected.

DISCUSSION

MPEP 605.04(c) states in relevant part,

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

In the present case, applicants have filed a petition under 37 CFR 1.182. The requisite \$130.00 petition fee will be charged to Deposit Account No. 02-2448 as authorized by the petition.

The copy of the purported court order submitted with the petition is insufficient because it is not an original certified document. It is further noted that applicants have supplied only a partial translation of the purported court order.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. A proper response must include either: 1) an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or 2) an original certified copy of the court order with a complete translation. Failure to timely file a proper response will result in ABANDONMENT of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



Bryan Tung
PCT Legal Examiner
PCT Legal Office



Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459